



PUBLIC NOTICE

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DA 98-413

Proposed Second Quarter 1998 Universal Service Contribution Factors Announced CC Docket No: 96-45

By the Common Carrier Bureau:

In this Public Notice, the Common Carrier Bureau (Bureau) announces proposed universal service contribution factors for the second quarter of 1998.

In the *Universal Service Order* released on May 8, 1997, the Commission established new federal universal service support mechanisms consistent with the Communications Act of 1934, as amended.¹ The Commission required all telecommunications carriers that provide interstate telecommunications services, providers of interstate telecommunications, and payphone service providers to contribute to the federal universal service support mechanisms.² The Commission found that contributions for the schools, libraries, and rural health care support mechanisms would be based on interstate, intrastate, and international end-user telecommunications revenues.³ The Commission also found that contributions for the high cost, rural, and insular and low-income support mechanisms would be based on interstate and international end-user telecommunications revenues.⁴

On July 18, 1997, the Commission released an Order directing the National Exchange Carrier Association (NECA) to create an independently functioning not-for-profit subsidiary, the Universal Service Administrative Company (USAC), through which it will administer

¹ Federal-State Joint Board on Universal Service, *Report and Order*, 12 FCC Rcd 8776 (1997) (*Universal Service Order*).

² *Universal Service Order*, 12 FCC Rcd at 9173-9178, 9183-9185.

³ *Universal Service Order*, 12 FCC Rcd at 9203, 9205.

⁴ *Universal Service Order*, 12 FCC Rcd at 9200, 9202-9203.

temporarily certain aspects of the federal universal service support mechanisms.⁵ The Commission also directed NECA to create two independent, not-for-profit entities, Schools and Libraries Corporation (SLC) and Rural Health Care Corporation (RHCC), to administer certain aspects of the schools, libraries, and rural health care support mechanisms.⁶ The Commission instructed USAC, SLC, and RHCC to submit projections of demand and administrative expenses for their respective support mechanisms for each quarter to the Commission at least sixty days before the start of each quarter.⁷ USAC also was required to compile total interstate, intrastate, and international end-user telecommunications revenues and submit that information to the Commission.⁸ The Commission stated that it would publish these figures and the proposed quarterly contribution factors in a Public Notice.⁹

In the *Third Order on Reconsideration in CC Docket 96-45*, the Commission set the maximum amounts to be collected during the first six months of 1998 for the schools and libraries and rural health care support mechanisms; \$625 million for the schools and libraries support mechanism and \$50 million for the rural health care support mechanism.¹⁰ In a Public Notice, the Commission projected that annual demand for the low income support mechanism should be approximately \$500 million and that quarterly demand should be \$125 million.¹¹

⁵ Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service, *Report and Order and Second Order on Reconsideration*, CC Dockets No. 97-21, 96-45, FCC 97-253 (rel. July 18, 1997) (*NECA Report and Order*).

⁶ *NECA Report and Order* at para. 57.

⁷ *NECA Report and Order* at para. 47.

⁸ *NECA Report and Order* at paras. 43-48. See also 47 C.F.R. §§ 54.709(a)(2), (3), and 54.711(b).

⁹ *NECA Report and Order* at para. 48.

¹⁰ Federal-State Joint Board on Universal Service, *Third Order on Reconsideration*, CC Docket 96-45, FCC 97-411 (rel. Dec. 16, 1997).

¹¹ First Quarter 1998 Universal Service Contribution Factors Revised and Approved, *Public Notice*, DA 97-2623 (rel. December 16, 1997).

On January 30, USAC, SLC, and RHCC submitted the following projections of second quarter 1998 demand and administrative expenses:

(\$ millions)

Program	Program Demand	Administrative Expenses	Interest Income ¹²	Total Program Costs
Schools and Libraries	322.4	4.4	(1.8)	325.0
Rural Health Care	23.2	1.9	(0.1)	25.0
Subtotal	345.6	6.3	(1.9)	350.0
High Cost	431.1	0.9	(0.9)	431.1
Low Income	122.3	0.4	(0.3)	122.4
Subtotal	553.4	1.3	(1.2)	553.5
TOTAL	899.0	7.6	(3.1)	903.5

Based on information contained in the Universal Service Worksheets, FCC Form 457, USAC submitted end-user telecommunications revenues for the second half of 1997 on January 30, 1998. On February 24, 1998, USAC revised these revenue estimates to reflect newly-filed or revised Form 457 submissions and to exclude revenues from contributors that the Commission determined are exempt in its *Fourth Order on Reconsideration*.¹³ The revised amounts are as follows:

Total Interstate, Intrastate, and International End-User Telecommunications Revenues from January 1, 1997 - June 30, 1997: \$92.1856 billion

Total Interstate and International End-User Telecommunications Revenues from January 1, 1997 - June 30, 1997: \$35.3033 billion.

We estimate quarterly revenues by dividing the six-month revenue estimates listed above by two.

¹² Because this table lists expenses, positive income flows are denoted with parentheses.

¹³ Letter from Ed English, Secretary and Treasurer, USAC to Magalie Romon Salas, Secretary, FCC (dates Feb. 24, 1998); Federal-State Joint Board on Universal Service, Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge, CC Dockets 96-45, 96-262, 94-1, 91-213, 95-72, *Fourth Order on Reconsideration*, FCC 97-420 (Dec. 30, 1997) (concluding that systems integrators, broadcasters, non-profit schools, non-profit universities, non-profit libraries, and non-profit health care providers will not be required to contribute to universal service).

Based on the figures submitted by USAC, SLC, and RHC, the proposed contribution factors for the second quarter of 1998 are as follows:

Contribution factor for the schools and libraries and rural health care support mechanisms:

Total Program Costs / Contribution Base (Interstate, International, and Intrastate) =
\$0.350 billion / (\$92.1856 billion / 2) = **0.0076**

Contribution factor for the high cost and low income support mechanisms:

Total Program Costs / Contribution Base (Interstate and International) =
\$0.554 billion / (\$35.3033 billion / 2) = **0.0314**

These factors are the proposed second quarter 1998 universal service contribution factors. If the Commission takes no action regarding these proposed factors by March 13, 1998, the projections shall be deemed approved by the Commission¹⁴ and shall be used by USAC to calculate second quarter universal service contributions.

For further information, contact Frances Downey, Universal Service Branch, Accounting and Audits Division, Common Carrier Bureau, at (202) 418-7400.

-- Action by the Common Carrier Bureau --

¹⁴ 47 C.F.R. § 54.709(a)(3).

February 27, 1998

**SEPARATE STATEMENT OF
COMMISSIONER HAROLD FURCHTGOTT-ROTH**

Re: Proposed Second Quarter 1998 Universal Service Contribution Factors Announced in CC Docket 96-45.

Today, the Common Carrier Bureau releases a Public Notice announcing the proposed universal service contribution factors for the second quarter of 1998 which will automatically go into effect if the Federal Communications Commission takes no action within 14 days. For a variety of reasons I am concerned about the Public Notice and its proposed contribution factors, and believe that, with regard to universal service, the Commission continues down a path that cannot be sustained.

First I remain concerned that we are implementing this new program without being fully aware of the effect on ratepayers, and with the intent to keep consumers from being fully aware of the increased prices that will result. Last December, I dissented from the Commission's Order decreasing the amount of money that may be collected during the first six months of 1998 because of my concern that it was part of an agreement to keep carriers from placing any line item on their residential customers' bills. In this regard, as explained below, I am disturbed that the Commission's attempt to keep carriers from specifying a new charge for schools and libraries on their bills may have threatened the integrity of the high cost fund.

Moreover, there have been many Congressional concerns with respect to both the scale and scope of these new programs. Just this week the House Judiciary Committee held a hearing on whether the universal service charges are unconstitutional, as the Constitution mandates that only Congress has the power to tax. In addition, on February 10, 1997 GAO reported to Senator Stevens that the FCC exceeded its statutory authority when it created the Schools and Libraries and Rural Health Care Corporations. With so many concerns and questions about the propriety of these new programs, I am reluctant to support consideration of any expansion, even the \$25 million for the Schools and Libraries Corporation submitted here.

This Public Notice also releases the administrative expenses as proposed by the Universal Service Administrative Company (USAC), the Schools and Libraries Corporation (SLC) and the Rural Health Care Corporation (RHCC). In objecting to the December Order, I noted that in the first quarter SLC and RHCC "were each allocated more than twice as much money to administer certain aspects of those support mechanisms than is allocated to administer the substantially larger high cost fund." In the current Notice, this disparity continues to grow, with the SLC being allocated almost four times as much money for administrative expenses. Indeed, the SLC's administrative budget increases from \$2.7

million to \$4.4 million or by 65% in just one quarter. This change is the equivalent of an additional \$18,000 every day for the next 90 days. I cannot endorse this disparity, or this magnitude, while knowing that many members of Congress are equally concerned with high cost areas as with schools and libraries and rural health care.

In addition, I object to the Public Notice's continued failure to take into account the reality of uncollectibles. It has come to my attention that, since the first of the year, USAC has had difficulty collecting all of its billed amounts for universal service. In a memorandum to the USAC Board of Directors dated February 24, 1998, Ed English, USAC Secretary and Treasurer estimated that, based on collections received through February 23, 1998, there will be a shortfall for the high cost fund distribution to be made on Friday, February 27, 1998 in excess of \$10,000,000.¹ This shortfall is primarily due to nonpayment and the Common Carrier Bureau's decision last December to reduce the estimate of uncollectibles to zero. USAC originally recommended, and the contribution factors initially set forth in the Common Carrier Bureau's November 13 Public Notice included, an adjustment for possible uncollectible contributions. Such a minor adjustment is a reasonable anticipation for a new program. The final Order released December 16, 1997, however, included no adjustments for uncollectibles. Despite the fact that the first quarter has had total uncollectibles in excess of \$12 million, the Bureau's Public Notice follows the December First Quarter Order that expressly "includ[ed] no adjustments for uncollectibles."

Why would the Commission continue with this fallacy of 0% uncollectibles? Because the reduction of uncollectibles to zero was simply a part of a larger scheme by the Commission to "reduce the [universal service] charges after the carriers said the fee could lead to higher rates and after AT&T and MCI threatened to specify the charge on the bills they send to customers." *Fund to Aid Technology in Schools Facing Big FCC Cuts*, New York Times, December 15, 1997 at D-1. I am concerned that, in the Commission's zeal to implement the schools and libraries program on January 1, 1998, despite specific Congressional requests that we delay commencement until the impact of our actions could be more fully assessed, the Commission has taken actions that have adversely impacted the high cost fund. As such, I cannot support this Public Notice and its failure to make any adjustment for uncollectibles.

Finally, I note a potential error by USAC and NECA in the collection process that has not been addressed. The Commission's Order, adopted in December, explicitly waived

¹ According to most recent estimates, total uncollectibles are estimated to be in excess of \$12 million, of which a portion will be allocated to the high cost fund. According to the Bureau, USAC expects to recover most of the uncollectibles relatively soon and the most recent estimates place the shortfall for the high cost fund at closer to \$5 million. The memorandum also states that USAC intends to address this shortfall by borrowing \$10 million temporarily from the low income fund without seeking approval from the Commission.

the APA's 30-day requirement because it was deemed critical to implement the new schools and library program on January 1, 1998. Thus, the rules that were necessary to calculate the lower universal service contribution factors were to be effective upon publication in the Federal Register. These rules were not published in the Federal Register until January 27, 1998. Moreover, as published, the Order clearly states that "[t]he rules adopted in this Order will become effective February 26, 1998." Thus, I believe that the higher contribution rates were legally in effect at least until January 27, if not until February 26 -- yesterday. I am unclear as to how this possible error would effect the current contribution factors as well.

In conclusion, I reiterate my desire that the Commission delay further implementation of the new universal service programs until we have had the opportunity to fully assess the impact that these new programs will have on consumers. I trust the Commission will use the Stevens Report as such an opportunity for review. Instead of attacking the phone companies for passing along to consumers the very same charges that we have imposed, I recommend that we reevaluate the scope and mechanics of our new universal service system.